

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RASHAUN BLANFORD,

Plaintiff,

-against-

**DECLARATION OF
BRIAN EDWARDS**

9:21-CV-0231
(TJM/CFH)

CORRECTION OFFICER S. BANKS, et al.,

Defendants.

BRIAN EDWARDS, on the date noted below and pursuant to § 1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I am employed by the New York State Department of Corrections and Community Supervision (“DOCCS”). I am currently one of two Incarcerated Grievance Program (“IGP”) Supervisors at Attica Correctional Facility (“Attica”). I have been employed at Attica as an IGP supervisor since April, 2022. As an IGP Supervisor, I am fully familiar with the procedures available to incarcerated individuals for filing and processing grievances at Attica.

2. I submit this declaration based on my personal knowledge and upon review of the applicable regulations, DOCCS Directives, and records kept by DOCCS in the ordinary course of business.

3. Although I am not a party to this lawsuit, I submit this declaration in support of defendants’ motion for summary judgment.

Incarcerated Grievance Program at Attica

4. The Incarcerated Grievance Program at DOCCS is provided for in Part 701 Title 7 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“N.Y.C.R.R.”). The grievance process is also described in detail in DOCCS Directive #4040. NYCRR Title 7 and Directive #4040 are available in the Attica law library.

5. To start the grievance process, an incarcerated individual sends a written complaint to the grievance office. A complaint may be written on a grievance form available to incarcerated individuals at Attica, or on regular paper. A grievance must be filed with the grievance office within twenty-one (21) calendar days of the alleged occurrence that the incarcerated individual seeks to grieve. Grievances received after the 21 calendar days have elapsed will be considered untimely and will not be filed. However, if there are mitigating circumstances, which are provided for in Section 701.6(g) of Directive #4040, an incarcerated individual may submit a written request for permission to file a late grievance, so long as the written request is received within 45 days of the alleged incident.

6. Pursuant to 7 N.Y.C.R.R. § 701.5(a)(1) grievances must be filed at the facility where the incarcerated individual is housed even if the grievance pertains to another facility. A grievance is considered filed for purposes of 7 N.Y.C.R.R. § 701.5(a)(1) the date that it is received and processed by the facility grievance office, not when the grievance was dated or mailed by the incarcerated individual.

7. Once an incarcerated individual’s grievance is determined to be timely, the grievance is logged, coded, and titled. An investigation request is sent to investigate the incarcerated individual’s claims. After the investigative report is returned, a grievance hearing is

conducted by the Inmate Grievance Resolution Committee (“IGRC”). Within two (2) days following the hearing, the IGRC’s determination is logged and forwarded to the incarcerated individual, who is advised that—if he or she disagrees with some or all of the IGRC’s determination—he or she must appeal the IGRC determination to the Superintendent within seven (7) calendar days. Occasionally, a grievance may be resolved informally prior to a hearing before the IGRC.

8. DOCCS has an expedited procedure for the review of grievances alleging harassment by DOCCS employees. If an incarcerated individual filed a grievance alleging staff misconduct, after the same is logged, coded and titled, it is forwarded directly to the Superintendent’s office the day it is received, where an officer with a higher ranking than the staff member alleged to have committed the misconduct is assigned to investigate the claims. Grievances alleging staff misconduct receive a Superintendent response, rather than an IGRC determination. *See* 7 N.Y.C.R.R. 701.8(a).

9. Upon issuance of the Superintendent’s response in either instance, an incarcerated individual who is not satisfied can appeal to the Central Office Review Committee (“CORC”), the third and final step under DOCCS’ Incarcerated Grievance Program.

10. At Attica, all documents, or copies thereof, related to a particular grievance, including the grievance, investigations, and appeals, are stored in the Attica grievance office in the regular course of that office’s activities as they are created or received. The Attica grievance office keeps all such documents for grievances filed in the current year and in the previous four (4) calendar years—thus, our office has on file all grievances filed in Attica from January 1, 2018 to

the present. All such documents are made and maintained in the regular course of facility operations and it is a regular practice to make and maintain such records.

Grievances filed by Incarcerated Individual Rashaun Blanford

11. In preparing to draft this Declaration, I have reviewed the grievance files for plaintiff, Rashaun Blanford (DIN: 18-B-0908)(“plaintiff”), which are maintained in the regular course of business at the Attica grievance office.

12. It is my understanding that plaintiff asserts that defendants, Correction Officer S. Banks, Rehabilitation Coordinator B. Demeree, Registered Nurse S. Derocco and Correction Officer D. Johnson (collectively “defendants”), violated his Eighth Amendment rights. Specifically, plaintiff claims that the defendants subjected him to excessive force and sexual assault, failed to intervene when he was subjected to excessive force, were indifferent to his serious medical needs, and committed medical malpractice while he was housed at Marcy from February 2, 2021 through February 6, 2021.

13. Plaintiff’s claims in this action are the proper subject for a grievance under the IGP.

14. Throughout the time plaintiff was incarcerated at Attica, from March 4, 2021 through June 21, 2021, he had full access to Attica’s grievance office, including the ability to file grievance complaints. Annexed hereto as **Exhibit “A”** is a copy of Plaintiff’s Chronological History Display showing when he was housed at Attica.

15. If plaintiff either filed or attempted to file any grievances related to the claims at issue in this matter while he was housed at Attica, there would be a record of it in Attica’s grievance office.

16. A review of the records maintained by Attica's grievance office indicates that plaintiff did not file any grievances related to the claims at issue in this matter while he was housed at Attica. Annexed hereto as **Exhibit "B"** is a list of all the grievances Plaintiff filed while he was housed at Attica.

17. Accordingly, plaintiff did not file any grievances with Attica's grievance office concerning his claims against the defendants outlined in ¶ 12 above, that are the subject of this action.

18. My review of plaintiff's records maintained in the grievance office also indicates that plaintiff did not submit a written request for an extension of time to file a grievance concerning his allegations set forth in ¶ 12 above.

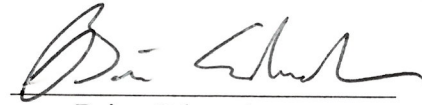
19. During my review of plaintiff's records, it appears plaintiff did file a prison rape elimination act complaint against defendants Banks and Johnson, but never availed himself of the grievance process, despite apparently knowing how to do so, as outlined in **Exhibit B**.

20. The deadline for plaintiff to file a grievance relating to his claims in this action was February 23, 2021¹, and the deadline for plaintiff to submit a written request for an extension of time to file a late grievance was March 18, 2021.

21. Since DOCCS' records reflect that the plaintiff did not file a grievance against any of the named defendants with respect to the claims outlined in ¶ 12 above; plaintiff has failed to exhaust his administrative remedies as required by 42 U.S.C. §1997e(a).

¹ Plaintiff would have needed to file a timely grievance at Marcy Correctional Facility, as he was not housed at Attica until March 4, 2021. Plaintiff could have filed a request to submit a late grievance once he arrived at Attica until March 18, 2021.

Dated: September 26, 2022,
Attica, New York

A handwritten signature in black ink, appearing to read "Brian Edwards", written over a horizontal line.

Brian Edwards

Exhibit A

07/21/21

LOCATOR SYSTEM
CHRONOLOGICAL HISTORY DISPLAY
04 GREAT MEADOW

KLOCM6B

DIN 18-B-0908 NYSID 02895300-N FACILITY GRT MEAD BHU LOCATION BH-02-D08
NAME BLANFORD, RASHAUN DOB 05/27/96 SEX M E/R NB

EFFECTIVE DATE	DATE ENTERED	SENDING FACILITY	RECEIVING FAC/ OUTCOUNT LOCATION	TRANSACTION TYPE	CELL
01/19/21	01/19/21	GRT MEAD BHU	DWNSTATE REC	INTRANS RECV	01-0D-035
01/21/21	01/21/21	DWNSTATE REC	MARCY RMHU	INTRANS SENT	01-0D-035
01/21/21	01/21/21	GRT MEAD BHU	MARCY RMHU	TRANSFER IN	RM-A1-017
03/04/21	03/04/21	MARCY RMHU	ATTICA GEN	TRANSFER OUT	RM-A1-024
03/04/21	03/04/21	MARCY RMHU	ATTICA GEN	TRANSFER IN	RB-CN-001
06/21/21	06/21/21	ATTICA GEN	GRT MEAD BHU	TRANSFER OUT	RB-CE-014
06/21/21	06/21/21	ATTICA GEN	AUBURN DEPOT	INTRANS RECV	0D-08-16B
06/22/21	06/22/21	AUBURN DEPOT	GRT MEAD BHU	INTRANS SENT	0D-08-16B
06/22/21	06/22/21	AUBURN DEPOT	DWNSTATE REC	INTRANS RECV	SH-1E-018
06/26/21	06/26/21	DWNSTATE REC	1061	OUTSIDE HOSP	HS-00-X01
06/30/21	06/30/21		DWNSTATE REC	OUTCOUNT RET	HS-00-X01
07/09/21	07/09/21	DWNSTATE REC	1061	OUTSIDE HOSP	HS-00-X01
07/13/21	07/13/21	DWNSTATE REC	GRT MEAD BHU	INTRANS SENT	- -

<ENTER> CONTINUE <PF3> EXIT(FUNCTION) <PF4> RETURN <CLEAR> EXIT(SYSTEM)
 <PF7> SCROLL BACKWARD <PF8> SCROLL FORWARD

Exhibit B

Grievance Search

Grievance Number	Name	DIN	Code	Date of Grievance	Title Of Grievance	Date of Hearing	Date Returned from Supt	CORC Submit Date	Solved Informal
A-0536-21	BLANFORD, R	18-B-0908	49	03/29/2021	CO Harassment		04/21/2021		
A-0599-21	BLANFORD, R	18-B-0908	24	04/08/2021	SPECIAL PROGRAMMING	04/12/2021	04/20/2021		
A-0786-21	BLANFORD, R	18-B-0908	24	05/05/2021	SHU MAIL PROCEDURE	05/17/2012			
A-0860-21	BLANFORD, R	18-B-0908	22	05/14/2021	OMH TREATMENT		05/17/2021		
Total: 4									

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